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9 California; Harry E. Hagen, as Treasurer-Tax
10 Collector of the County of Santa Barbara,
11 California; and Santa Barbara County Air
12 Pollution Control District*

13 UNITED STATES BANKRUPTCY COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15 SANTA BARBARA DIVISION

16 In re:

17 HVI Cat Canyon, Inc.,
18
19 Debtor.

Case No.: 9:19-bk-11573-MB

Chapter 11

**DECLARATION OF KRISTINA
AGUILAR IN SUPPORT OF DKT.
NOS. 153 & 206**

20
21 I, Kristina Aguilar, declare as follows:

22 1. I am the Administrative Division Manager for Santa Barbara County Air
23 Pollution Control District (APCD), and I have personal knowledge of the matters
24 stated herein.

25 2. The exhibits attached hereto: (1) were made at or near the time of the act,
26 event, or conditions stated therein by, or from information transmitted by, someone
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1 with knowledge of the facts; (2) the records were kept in the course of the regularly
2 conducted activity of APCD; and (3) the records were made as part of the regular
3 practice of APCD.
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5 3. HVI Cat Canyon, Inc. (HVI), like all oil and gas operators in the County
6 of Santa Barbara is required to comply with all APCD, State, and Federal rules and
7 regulations. This includes permit fees, planning fees and other matters. Permit fees
8 include permit application filing fees, permit evaluation fees, permit renewals, three-
9 year reevaluations under Rule 201.G, NSR permits (Authority to Construct/Permit to
10 Operate), and Reimbursable Staff Labor. Planning fees include Annual Emission Fees
11 (AEF), Air Toxics Fees, and Air Quality Attainment Plan (AQAP) fees. APCD also
12 collects monies due to the settlements of Notices of Violation (NOV) Penalties and
13 source test fees.
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17 4. HVI did include a line item in HVI's court-approved cash collateral
18 budgets [Dkt. 43 and Dkt. 182] for payment of APCD regulatory costs, as shown in
19 the table below.
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	Week 1 29-Jul- 19	Week 2 5-Aug- 19	Week 3 12- Aug-19	Week 4 19- Aug-19	Week 5 26- Aug-19	Week 6 2-Sep- 19	Week 7 9-Sep- 19	Week 8 16- Sep-19	Total through Week 8
22 APCD		4,211	2,000	2,000	60,000	2,000	62,000	2,000	134,211
23 Total									221,180

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1 5. Based on the cash collateral 8-week budget, APCD was expecting to
2 receive a total of \$134,211 during the 8-week period. APCD has not received any
3 payments from HVI since the filing of the bankruptcy matter.
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5 6. In my time at APCD, HVI routinely fails to pay fees and penalties on
6 time. However until recently HVI has typically paid their fees late with accrued
7 penalties.
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9 7. APCD anticipates that HVI's fees for Fiscal Year 2019-2020 to be
10 approximately \$162,488 for permit reevaluations and \$45,000 for other fees (AQAP,
11 AEF, source test fees, etc.) for a total of \$207,488. The spreadsheet attached as Exhibit
12 ~~SB-26~~ documents the expected permit reevaluation costs. The \$162,488 was calculated
13 by totaling the HVI permits would be due for reevaluation during Fiscal Year 2019-
14 2020 and calculating the estimated reevaluation fee.
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17 8. On September 24, 2019, APCD mailed 14 invoices to HVI for a portion
18 of the permit reevaluation fees, totaling \$151,115. (Exhibit ^{SB}~~27~~.) The remainder of the
19 anticipated reevaluations will be processed and invoiced later in the year. The
20 estimated \$45,000 for AQAP, AEF, source test fees, and the like was calculated by
21 taking prior year actual fees billed and the equipment due to be source tested.
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24 9. For active permits, the APCD reevaluates the permits every three years.
25 The reevaluation fee is due at the beginning of the three years, but is used over the
26 course of the subsequent three years to reimburse APCD for engineering and
27 compliance efforts associated with the permit. The attached account statement
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1 includes the reevaluation fees that HVI was billed pre-petition; however, a portion of
2 each of these funds post-petition work by APCD, as shown in the attached
3 calculations. (Exhibit ^{SB}~~28~~.) HVI has not paid APCD for a number of these
4 reevaluations prepetition nor any of the post-petition reevaluations. For the permit
5 reevaluations, HVI owes APCD a post-petition prorated amount of \$150,820.35.
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8 10. Additionally, for active permits, an annual AQAP fee is due at the
9 beginning of the year, but funds the programs and are expended over the course of the
10 year (56% pre-petition and 44% post-petition). The attached account statement
11 includes the AQAP fees that HVI was billed pre-petition; however, a portion of each
12 of these funds post-petition work by APCD, as shown in the attached calculations.
13 (Exhibit ^{SB}~~29~~.) For the AQAP fees, HVI owes APCD a post-petition prorated amount
14 of \$2,604.54.
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17 11. All invoiced fees have a net 30-day term. At day 30 a letter is sent to the
18 invoicee notifying them the associated fees are late. A penalty of 10% is assessed if
19 not paid in 60 days. (District Rule 210.V.A, excerpt included as Exhibit ^{SB}~~30~~.) A 10%
20 penalty is then assessed every 30 days thereafter until the invoice is paid. The Air
21 Pollution Control Office may initiate action to revoke or suspend the permit if the
22 permit fees remain unpaid. (District Rule 210.V.A.) APCD will continue to perform
23 field inspections at HVI facilities, issue permits, assess permit compliance, review
24 and witness source tests, and evaluate air toxics impacts in order to protect health and
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safety. The foregoing amounts for Fiscal Year 2019-2020 do not include penalty assessments for ongoing or new NOV's.

12. To summarize, the table below reflect the best figures APCD currently has for HVI's post-petition obligations to APCD.

Type of APCD Fee	Current Amount Owed	Expected Total for Fiscal Year
Permit Fees	\$151,115	\$162,488
AQAP, Emissions, etc.	\$516.69	\$45,000
Prorated Reevaluations		\$150,820.35
Prorated AQAP		\$2,604.54
Penalties (Two Year Average)		\$161,625

13. As of the bankruptcy petition date, HVI owed APCD \$1,701,344.67. Documents filed by HVI incorrectly scheduled that HVI owed APCD \$145,681.43 plus \$7,867.00 plus "UNKNOWN". I believe that the "UNKNOWN" line item is a stipulated judgment for \$99,000 entered against HVI on July 16, 2019 in Santa Barbara Superior Court Case No. 19CV01372. (See copy attached as Exhibit ^{SB}31.) In any event, the approximate \$252,548.43 scheduled by HVI as owed to APCD is far less than the \$1,701,344.67 actually owed as of the petition date.

14. HVI's affiliate, California Asphalt Production, Inc. (CAP), also has outstanding bills for a Permit Reevaluation, AQAP fees, AEF fees, and associated late penalty fees. As of September 27, 2019, CAP owes APCD \$138,153.60. (Exhibit ^{SB}32.)

1 15. I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct.

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4 Executed on the 27th day of September, 2019 at Santa Barbara.

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6 By: Kristina Aguilar
7 Kristina Aguilar
8 Administrative Division Manager
9 Santa Barbara County Air Pollution
10 Control District
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